1949.

File No. O.I.P.(E.P.)/49
Part II.

Legal DEPARTMENT

A BRANCH

Subject:—

Opinions under the Indian Press (Emergency Powers) Act, 1931.

(For previous papers pl. see part I.)

P-69
E

File No. O.I.P.(E.P.)/49.
Part II.

Stl. Secrt. Slip 24 B c.

28-II

CONTENTS.

Legal Department File No.Ø.I.P. (E.P.)/49 Pt.II.

Sr. No.	Compilation No.	Subject	Pages.
		Opinions under the Indian Press (Emergency Powers) Act, 1931	
1.	O.No.7189 29.6.1949	Section 4(1) (d) - Whether the article purporting to be a statement by the All China Federation of Labour, issued through the New China News Agency is actionable.	1-2.
2.	O.No.7737 11.7.1949	Section 4(1) (d) - Whether the article under caption "In Simla Atmosphere Gandhi Murder Trial" in the issue of Kolaba Samachar dated 28-5-1949 is actionable.	3-6.
	O.No.10466 16.9.1949	Section 4. Whether the play entitled "Gandhi Swargarohan" by Shamrao Deshmukh is actionable.	7-10.
4.	O.No.10507 16.9.1949	Section 4. Whether the editorial published in the 'Azadi' under the caption "The Demand for the ~~partition~~ of East Bengal" is actionable.	11-12.
5.	O.No.11645 14.10.1949	Whether the leading article in the issue of 'Mashal' dated 24-9-1949 is actionable.	13-16.
6.	O.No.11789 20.10.1949	Section 4(1) Whether the article under the caption "Withdraw the order under section 144" in the issue of Janawani dated 25-9-1949 is actionable.-	17-20.
7.	O.No.11733 20.10.1949	Section 4(1) (dØ) - Whether the article under the caption "The resolve of the Hali Kisans of Surat" appearing in the issue of Jaya Gujarat" dated 28-8-1949 is actionable-	21-24.
8.	O.No.12271 1-11-1949	Section 4 (1) Whether the editorial of 'Mashal' dated 6th October 1949 is actionable.	25-26.
9.	O.No.12775 12-11-1949	Section 4(1) (d)- Whether the editorial under the caption "Head constable's work done by an underling" appearing in the issue of 'Mashal' dated 20-10-1949 is actionable.-	27-28.
10.	O.No.13054 16-11-1949	Section 4 - Whether the editorial in the issue of 'Mashal' dated 12-10-1949 is actionable.	29-30.
11.	O.No.13066 17-11-1949	Section 3- Whether the contents appearing at the corner on page 10 of the 'Indo Soviet Journal' is suffiesient compliance w ith the provisions of section 3.	31-32.
12.	O.No.13072 17-11-1949	Section 4(1) Whether the editorial in the issue at 'Mashal' dated 13-10-1949 is actionable.	33-36.

CONTENTS.

Legal Department File No.O.I.P.(E.P.)/49.Pt.II

Sr. No.	Compilation No.	Subject	Pages
13.	O.No.13242 21.11.1949	Whether the editorial appearing in the issue of 'Jay Gujarat' dated 7th August 1949 is actionable.-	37-40.
14.	O.No.240-Confl. 26-4-1949	Section 18(1) - Whether the keeper of the New age Printing Press can be successfully prosecuted under section 18-	41-42.
15.	O.No.742-Confl. 1-12-1949.	Section 4(1) (b) Whether the editorial appearing in the issue of "Akhand Bharat" dated 20-11-1949 is actionable.	43-50.
16.	O.No.14871 21-12-1949	Section 4(1) (b) Whether the article in the issue of 'Hindu' dated 17-11-1949 is actionable.	51-54.
17.	O.No.14985 23-12-1949	Section 4 - Whether the article under the caption "Gov ernmental antics and hambug" appearing in the issue of 'Janata' dated 17-9-1949 is actionable.-	55-58.
18.	O.No.15242 29-12-1949	Section 4(1) (b)- Whether the poem "Award to the brave Momin" published in the issue of Musavvir dated 20.11.1949 is actionable	59-60.
19.	O.No.516 9-1-1950	Section 4(1) (f) and (g)- Whether the article in the issue of 'Vishal Karnatak' dated 25-11-1949 is actionable.-	61-64.
20.		A classified list of opinions recorded in respect of Press Matters in the year 1949.	65-70.

S.I./15.5.50. 5c.

15/5

The Indian Press (Emergency Powers) Act, 1931.

The question referred to the Remembrancer of Legal Affairs for opinion is whether the article purporting to be a statement by the All-China Federation of Labour, issued through the New China News Agency, is actionable under section 4(1) (a) of the Indian Press (Emergency Powers) Act, 1931. The statement charges the Indian Government with brutally persecuting and murdering trade union leaders, Communists and democrates in Hyderabad, Jubbalpore, Bombay, Delhi and other places. In charging the Government of India openly with persecutions and murders of its citizens, the statement definitely attributes not only base motives but base actions to the Government of India and as such it excites disaffection towards the said Government. The object of the statement is not only to condemn the acts attributed to the Government but to incite resistance. The statement can, therefore, be said to have a tendency, directly or indirectly to, bring into hatred and contempt the Government established by Law and to excite disaffection towards that Government. The explanations 2 and 3 would not be available in protection of the statement.

sd/- P.N.Lal/28/6.

Remembrancer of Legal Affairs.

U.R. to H.D. (Poll) No.7189, dated the 29th June 1949.

S.I./11.5.56. 4c.

The question referred to the R.L.A. for opinion is whether the article under the caption "In Simla Atmosphere - Gandhi Murder Trial" in the issue of the Kolaba Samachar dated the 28th May 1949 is actionable under clause (b) of sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

2. Even when the article is read in the most liberal, free and fair spirit, no doubt will be left in the mind of any reader that it is intended for the purpose of expressing admiration of Nathuram Godse. He is described as Pandit Nathuram, his oratory in the court is praised and a special compliment is paid to him for the fact that he could answer quite satisfactorily every question which the Judges put to him. What is more, it is said that the wives of the Judges, their sons and daughters and members of families of big officers in Simla were always eager to hear his speech. Many tried to secure his autograph, numbers were anxious for his darshan; in short he had surcharged the whole atmosphere of Simla. He is described as a noble patriot, although misguided, and it is said that everybody was oppressed by the feeling that he would be hanged. The way his brother, Dattopant, was lionised is also graphically described, and it is said that one great retired High Court Judge specially made his acquaintance. It is said that Nathuram surcharged the atmosphere of Simla not only with his speech but by his noble conduct. The whole tenor and purpose of the article is thus to express admiration of Nathuram Godse and to hold him up as a hero and a martyr. Clause (b) of sub-section (1) of section 4 requires that the words should directly or indirectly express approval or admiration of any person who has committed or is alleged to have committed an offence of murder or any cognisable offence involving violence

There...

There is no dispute that Nathuram is alleged to have committed the offence of murder and, in as much as the article directly or indirectly expresses admiration of Nathuram and that too specifically in relation to the trial for that offence it would be actionable under that clause.

sd/- P.H.Lad/9.7.

Remembrancer of Legal Affairs.

U.H. to H.D. No.7737,dated the 11th July 1949

S.I./11.5.56. 4c.

The question raised for R.L.A's consideration is whether the play entitled "Gandhi Swargarohan" written by Shamrao Krishnarao Deshmukh is actionable under clause (h) of sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931, as likely to promote enmity and hatred between Brahmins and non-Brahmins.

2. The incident of Gandhiji's assassination is so presented in the play as to suggest that Gandhiji was assassinated in order to remove an obstacle in the way of the organization of the Brahmin community and in order to make it possible for the Brahmin community to live freely. On p.13 Parchure is made to say that it was Gandhiji who was responsible for the tenancy legislation for the prevention of fragmentation and consolidation of holdings, and the same statement is repeated at p.29. In other words the assassination is presented as an act of reprisal by aggrieved Brahmins. Moreover, statements are put in the mouth of Pandit Nehru which would supply justification for the masses to take vengence against the assassin and his community. Finally, the play ends with the stage direction that persons who were distributing sweets were massacred; and one unknown man cries out "you ungrateful wretches, you are distributing sweets. Let me send you along with him (i.e. Gandhiji) to heaven. Beat, kill them, do not leave the rascals."

3. Even when the play is read in a free, fair and liberal spirit, it is apparent that the dominant object is to suggest that the assassins acted as the spokesmen and in the interest of the Brahmin community, and that the reprisals against that community were justifiable. It is noteworthy that the devotees of Gandhiji are shown in the play as non-Brahmin agriculturists as against the Brahmins who are shown to bear ill-will to him. The whole tone of the statements and

songs in the play, particularly of the last stage direction is such as would undoubtedly excite hatred or enmity against the Brahmins in the minds of non-Brahmin agriculturists in particular. What the section requires is a tendency direct or indirect to promote feelings or enmity or hatred. The effect on the mind of the reader and particularly of the spectator of the play would have to be judged for gathering the tendency. The effect of inciting hatred or enmity against the Brahmins would not merely be a possible result but would be a natural result in the case of a non-brahmin who reads and more so who witnesses the play.

4. I am, therefore, of opinion that the play would be actionable under section 4(1) (h) of the Indian Press (Emergency Powers) Act, 1931.

Sd/- P.N.Lad/14.9

Remembrancer of Legal Affairs.

U.R. to H.D. (Poll) No.10466, dated the 15th September 1949.

S.I./11.5.56. 4c.

Office of the R.L.A.

It is true that the article does contain objectionable statements such as "day do day murder, ruination and cultural destruction" or that the Muslims "are seeing the destruction of their glorious culture and language with their own eyes". Too much reliance cannot be placed upon such isolated sentences. When the article is looked at as a whole, it is intended to make out a case for referring the question to U.N.O. and thus to solve the difficulties of minorities in both the Countries. As such the writer can justly claim the benefit of Explanations 2 and 3 to section 4 which protected comments expressing disapprobation of the measures of Government or of their administrative or other action with a view to obtaining their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection.

R.Ial/16-9

Remembrancer of Legal Affairs.

U.O. to H.D.(Poll) No.10307, dated the 16th September 1949.

S.I./ 11.5.56. 4c.

The question raised for the A.G.G.'s consideration is whether the leading article in the issue of 'Hashal' dated the 24th September 1949 is actionable under sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act.

2. The article bears the caption "Salutation to the Democratic Republic of the Chinese people"? It purports to explain the march of events in China culminating in the establishment of the Communist Republic in consequence of the campaigns of Maotse-tung. In the opening paragraph it is stated that the announcement by Maotse-tung regarding the establishment of the new Republican State "is a sign of the victory in a decisive form which the masses of Asia who were for centuries exploited in the clutches of the Imperialists have obtained in the war of liberation started against foreign Imperialists and indigenous capitalists in the countries of Burma, Malaya, Indonesia, Viet Nam and India". The struggle in China has been described as a war of liberation, and that example is recommended for emulation. Later on it is stated that the present Zamindari system was destroyed in the territories which were freed by the liberation forces the poor kisans obtained land, the reins of the state came in the hands of worker-kisan-middle classes, and the influence of workers prevailed in the field of industry and trade. This victory of the Chinese masses, it is stated, has proved another fact that it is only through revolutionary path that the working class and masses can capture the reins of power. A derisive reference is made to the principles of Socialism which believe in bringing about a change by the ballot box. The article ends as follows:

"The toiling masses of India respectfully salute this

New Democratic Republican State established in China, and they take a vow to drive out the British American Imperialists and their agents from India and to form a new State of the toiling masses."

3. Read as a whole the article can hardly leave doubt in the mind of an ordinary reader that its object is to suggest to the Indian Masses where the struggle is already stated to have commenced to follow the Chinese example, to discard the constitutional method of ballot box and to take a vow to bring about a change of Government by revolutionary methods. That conclusion would be apparent even when the article is read in a fair, free and liberal spirit. In so far as the dominant idea of the article is to exhort the Indian masses to establish a people's Government by revolution of the Chinese type, the article would be actionable under clauses (d) and (f) of sub-section (1) of section 4.

sd/ P.M.Lal/18.10

Remembrancer of Legal Affairs.

U.R. to H.D. No.11648, dated the 19th October 1949.

S.I./11.5.56. 4c.

The question raised for the R.L.A's consideration is whether the article under the caption "Withdraw the order under section 144" appearing in the issue of Janasakti (Gujarati) dated the 25th September 1949, is actionable under section 4 of the Indian Press (Emergency Powers) Act, 1931. The drift of the article is that the millowners and capitalists of Ahmedabad are really responsible for the situation which has arisen there and that the order under section 144 is unwarranted and interferes with civil liberties. The only objectionable part of the article is that which consists in the clear caution given that the public will not tolerate such orders in future and which commends the example of the students and labourers at Calcutta in defying the order and which contains the following statement in conclusion:

> "We once again request the District Superintendent of Ahmedabad immediately to withdraw section 144 and bring back to their senses the profiteers, the mill-owners, who have brought about this kind of disorder. If this is not done, the working class, bereft of bread and wages, will become desperate and will try to bring the mill-owners to their senses."

2. The article is written in sober and reasoned language and even contains a request to the D.S.P. to withdraw the order under section 144 of the Code of Criminal Procedure. It no doubt says that the public will not tolerate such orders and that the workers are likely to take the law in their own hands to bring the millowners to their senses. The article contains no appeal to the workers to take the law in their own hands or to defy the order. It merely explains what the attitude of the public is towards such order and the likelihood of its being defied by workers if it is not withdrawn in time. When it is read as a whole, it is difficult to gather a tendency

directly or indirectly to encourage or invite persons to interfere with the administration of law or with the maintenance of law and order or to commit any offences as required by clause (f) of section 4(1) to which alone the objectionable passages are referable. Moreover, the article will get the protection of the general principle that the journalist is entitled to express his disapprobation of the measures of Government and of the administrative or other actions provided he does so without any malicious motive. On the whole, therefore, I am disposed to think that the article is not actionable under sub-section (1) of section 4.

Sd/- P.M.Iad/19/10

Remembrancer of Legal Affairs.

U.R. to H.D. No.11729 dated the 20th October 1949.

S.I./11.6.56. 4c.

The question raised for the consideration of R.L.A. is whether the article under the caption " the resolve of the Hali Kisans of Surat" appearing in the issue of Jay Gujarat dated the 28th August 1949 is actionable under section 4(1) (d) of the Indian Press (Emergency Powers) Act, 1931.

2. The article gives the story of the life and work of Jamnadas Modi who apparently met with his death during the riots at Sabarmati Jail. There are only two objectionable passages in the article where the writer states -

(1) "Even now whenever I (the writer) go to the villages and discuss the present situation by sitting among the Raniparaj Agriculturists, they immediately ask me numerous questions such as 'how is Kodibhai? where is he? why has the Government imprisioned him in jail?' Then I tell them that this Government is the representative of Sowcars, Zamindars and Dhaniyamas, hence this Government has imprisioned Kodibhai in jail for the offence of 'awakening' our Raniparaj agriculturists-labourers."

(2) "And he fought against atrocity and finally this capitalist Government has sucked the blood of a true revolutionary servant of the Raniparaj people who raised his head against the highhanded, treacherous and totally unjust step of the Government of transferring the prisoners from one province to another province. The murder of Comrade Modi and Comrade Jha Jayanti amounts to the murder of the rights of the Kisans of Gujarat. It is the murder of the rights of the Kisans, labourers, tenants and Halis. He is an invaluable lesson for the Raniparaj Kisans in our taluka."

It is no doubt true that on a strict view it is possible to say that these two passages do attribute to the Government the dishonest motive of siding with the capitalists and of bringing about the "murder" of Jamnadas Modi. However, the article must be read as a whole and undue reliance cannot be placed on isolated passages which use what is by now the well known stock-in-trade of journalism. When the article is read as a whole in a free, fair and liberal spirit, it would be difficult to

hold.....

hold that it has a tendencey to incite the reader to disaffection. The object appears to be to acquaint the reader with the life and work of Jamnadas Modi and to glorify him for championing and for identifying himself with the cause of the Kisans and Halis. On the whole, therefore, I do not think that the article is actionable under clause (d) of section 4(1) of the Indian Press (Emergency Powers) Act, 1931.

Sd/- P.N.Lal/19/10.

Remembrancer of Legal Affairs.

U.R. to H.D. No. 11733 dated the 20th October 1949.

S.I./11.5.56. 4c.

Office of the R.L./

The question referred to the R.L.A. is whether the editorial of the Mashal dated the 6th October 1949 is actionable. The writer has referred to India as an agent of the British and American Imperialists. He criticises the delay on the part of the Government of India to extend their recognition of the Government of the new Democratic China and makes an appeal to the masses of India to support the writer's demand for such recognition. Incidentally the writer comments on the contemplated tactics of the British and American Imperialists to make use of India as their headquarters in the next war against Soviet Russia since China, on whom they were banking so far, is now lost to them. The article, read as a whole, and even in the passages which are marked, does not appear objectionable under section 4(1) of the Indian Press (Emergency Powers) Act, 1931.

Sd/- P.M.Isa/31/10.

Remembrancer of Legal Affairs.

U/R. to H.D. (Poll) No.12271 dated the 1st Nov. 1949.

S.I./11.8.56. 4c.

The question raised for the R.L.A's consideration is whether the Editorial under the caption "Head Constable's work done by an underling "appearing in the issue of the Hashal dated 20th October 1949 is actionable under section 4(1)(d) of the Indian Press (Emergency Powers) Act, 1931.

The burden of the Article is that the Prime Minister has allied himself with Capitalists and Imperialists in America and England, and that his foreign policy is dictated by them. A reference is made to a recent speech alleged to have been delivered by him America claiming that the people of South-Eastern Asia were looking to India for leadership; and in a series of questions that claim is ridiculed by suggesting that it is not the people in various countries of South-Eastern Asia but their betrayers who seek the leadership of the Prime Minister and his Government. The criticism is made that, on the other hand, the Nehru- Patel Government has dipped its hands into the blood of the people of South-Eastern Asia.

Although the cirticism in the article is at places couched in an objectionable manner as in the sentence quoted at the end of the proceeding paragraph or in the opening sentences of the article which seems to attribute to the Prime Minister callous indifference to the hardships of the people of this country, it would be difficult to hold the article as a whole actionable. The criticism of the foreign policy is far too common and is such as journalists are at liberty to make. The

objectionable passages cited before cannot be viewed in isolation; and they do no more than heighten the general tone of the article which appears to be within the bounds of journalistic freedom and to be protected by the explanation to section 4. For these reasons the article would not seem actionable under clause (d) of section 4(1) of the Indian Press (Emergency Powers) Act, 1931.

Sd/- P.N.Lal/21/4

Remembrancer of Legal Affairs.

U.R. to H.D. (Poll), No.12775, dated the 12th Nov. 1949.

S.I./14.5.56. 4c.

The question raised for the R.L.A.'s consideration is whether the Editorial article under the caption "Lesson of the Victory of the Chinese Revolution" appearing in the issue of the MASHAL (Gujarathi), dated the 12th October 1949, is actionable under section 4 of the Indian Press (Emergency Powers) Act, 1931. The article gives a narative of the Chinese Revolution and explains its genesis and progress in accordance with the familiar Communist ideology. Towards the end occurs the following objectionable passage.

> "This is the balance-sheet of the Chinese Revolution. Who can deny the fact that the working-class masses of India who are proceeding further along the path of a similar revolution, have to learn much from this?"

2. No doubt, the sting of the article lies in its tail. However, it is well settled that in order to judge the tendency of the article you must look at it as a whole giving due weight to every part. It is the general character and tendency that has to be ascertained by reference to the accepted criterion of the impression which it will make upon the minds of the any reader who is likely to read it in the context of present circumstances. The great bulk of the article is concerned with the historical narration and political explanation of the Chinese Revolution and as such it would not be actionable. It is extremely doubtful whether the concluding sentence will be accepted by Courts as an unequivocal incitement to the Indian masses to follow the bloody path of revolution on the lines of china. There is no doubt a suggestion to that effect, but the sentence is so cleverly worded as to admit of the construction that the writer merely intended the reader to gather his own lesson not for purposes of immediate action but....

p.t.o.

but as a conclusion which follows from a reasoned explanation which he has given of the events in China. From that point of view it is difficult to hold that the article either incites the commission of offences involving violence or has a tendency, directly or indirectly, to excite disaffection towards the Government established in India. The position is not free from doubt and I find myself unable to hold categorically that the article is actionable under section 4(1) of the Indian Press (Emergency Powers) Act, 193

sd/- P.N.Lal/16/11

Remembrancer of Legal Affairs.

U.R. to Home Dept. (Poll.), No.13034, dated 16th November 1949.

S.I./14.6.56. 4c.

Office of the R.L.A.

The question referred to the R.L.A. for advice is whether the contents appearing at the corner on page 10 of the "Indo-Soviet Journal" is sufficient compliance with the provisions of section 3 of the Press and Registration of Books Act, 1867. Section 3 of that Act is as follows:-

> "Every book or paper printed within the Provinces shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) (the name) of the publisher and the place of publication."

The contents appearing on page 10 include all the necessary particulars. No doubt the contents are so printed to give the appearance of an advertisement. The section does not however prescribe any particular form or manner in which the contents are to be printed. The insertion of the contents substantially satisfies the requirements of the section, the object of which is to ensure the supply of relevant information regarding publication.

Sd/- P.M.Ia 17/11

Remembrancer of Legal Affairs.

U.O. to H.D. (Poll), No.12066, dated the 17th November 1949.

S.I./14.5.56. 40.

The question raised for the R.L.A's consideration is whether the editorial article under the caption "Raise a gigantic front against black-markets" appearing in the issue of "Mashal" (Gujarati) dated 13th October 1949 is actionable under section 4(1) of the Indian Press (Emergency Powers) Act, 1931.

2. The article describes the hardships to the public due to shortages particularly of sugar and criticizes the Government policy in not controlling the situation as well as the declaration which officers of the Central Government and the Provincial Government are stated to have made. The only objectionable passages in the article are as follows:

> * (1) We hold the Congress rule responsible for the present situation. It always safeguarded the interests of the capitalist black-marketeers, and whenever the labouring masses or the middle class have raised a voice against it, it has wielded the whip of repression. It has begun to take revenge vindictively upon the Communist Party which fights for the necessities of life for the masses.
>
> (2) The Congress rulers of Bombay have not moved as yet. They have not taken the trouble of casting a glance at the hardships of the masses. Their presence is manifested only through the armed police dispersing at various places the people who are hard pressed.
>
> (3) This inhuman loot of the working and the middle classes, which is indulged in, is not the work of two or four grain dealers. It is the result of the policy of the present capitalist rulers. Their policy, which is opposed to the masses and which favours the sawkars and the landlords, is responsible for this result.
>
> (4) There is need for taking out processions for getting sugar and salt. There is need to make it clear that the people of Bombay will not tolerate this terrible plunder, and they will not let go unpunished the persons responsible for it."

3. The article is no doubt strongly worded, and the passages cited above tend to suggest that Government is impervious to the hardships of the people and is intent on favouring black-marketeers. To the extent that these

passages attribute a base motive to Government, the article may have been held objectionable but for the fact that in the context of present circumstances, it would receive the protection of Explanations 2 and 3 to section 4. There is nothing in the article which can be said to excite hatred, contempt or disaffection, apart from whatever disaffection is inherent in a criticism which naturally holds Government responsible for the various shortages. Even in the concluding passage there are no sufficient words to hold that any violent action is advocated. The whole drift of the article seems to be, as summarised by the caption, that of urging the people to organise a front against black-marketeers.

4. Read as a whole and making due allowance for the language of journalistic hyperbole, it cannot be said that the article is actionable under section 4(1)

Sd/- P.N.Lal/16/11.

Remembrancer of Legal Affairs.

U.O. to H.D. No.13078, dated the 17th November, 1949.

S.I./14.5.56. 4c.

The question for the R.L.A's consideration is whether the editorial article under the caption "Black History of Brutal Repression" appearing in the issue of Jay Gujarat dated 7th August 1949 is actionable under the Indian Press (Emergency Powers) Act, 1931. The article purports to give a factual account of the repressive measures taken by the Ministry of Bengal. It recites how many times firing was resorted to and how many persons lost their lives in such firing including women; how Congressmen (and not officers of Government) got hand-grenades thrown at a procession in which five women and six men lost their lives. It goes on to describe the firing upon political prisoners in jail, the gagging of newspapers. Finally the article describes how the All India Trade Union Congress and the Textile Workers' Conference of Gujarat-Saurashtra are orgainsing a militant united front of the workers holding different political views against this repression; that the front organised by Shri.Sarat Bose would not be effective and that no progressive movement can survive without making common cause with the struggle of the working classes.

2. There are no doubt elements of exaggeration in the article and it gives the general impression that the Congress Ministry of Bengal adopted repressive measures which resulted in loss of life. However, the whole tenor or the article is to urge an organised front against the policy adopted by the Government of Bengal. The article must be read as a whole and, after due allowance is made for journalistic exaggeration, it is the general drift and tendency of the article which must be judged for the purposes of deciding whether it is actionable or not. In so far as it refers to events which have actually taken place and makes comments on them and in consequence urges organised opposition to the policy leading to the

events.....

events, it will be covered by the Explanations 2 and 3 to section 4. It is difficult to spell out any malicious intention or any intention to excite disaffection towards Government so as to disentitle the article to the benefit of these Explanations. By itself the article does not contain sufficient material for the purpose of gathering a tendency for advocating violence or exciting disaffection and in any case it will be protected by the Explanations as stated above. In my opinion, therefore, the article is not actionable.

Sd/- P.M.Lad/18/11.
Remembrancer of Legal Affairs.

U.R. to H.D.(Poll) No.13242, dated the 21st November 1949.

S.I./14.5.56. 4c.

The decision in the case of Emperor v.Ismail Karimbhai Mansuri (44 Bom.L.R. 799) was based on the reasoning that a printer of a news-sheet cannot be said to make the news-sheet and that, if the Legislature intended to make the printer liable for printing an unauthorised newspaper or news-sheet, it would have been easy so to provide instead of using so vague a word as "makes" with reference to a newspaper or news-sheet. Thereafter, by section 2 of Ordinance No.LII of 1942 the words "prints or otherwise produces" were inserted after the word "makes" in section 18(1). This Ordinance was promulgated between the passing of the India and Burma (Emergency Provisions) Act, 1940, that is 27th June 1940, and 1st April 1946, when the emergency was declared to have ceased and therefore the Ordinance had a permanent life. However, to disencumber the Statute Book of such amending Ordinances, another Ordinance was passed in 1946 (Ordinance No.I of 1946) whereunder Ordinance No.LII of 1942 was repealed but it was provided in the saving section 3 of Ordinance No.I of 1946 that the repeal by this Ordinance of any Ordinances by which the text of any law was amended by the express omission, insertion or substitution of any matter shall not affect the continuance of any such amendment in operation at the commencement of this Ordinance, unless a different intention was expressly stated in the Ordinance by which the amendment was made. No such different intention making the insertion of the words "of a temporary duration" having been expressed in the original Ordinance No.LII of 1942, it would follow that the words "prints or otherwise produces" have been permanently added to section 18(1). In that view a printer's case is now expressly provided and the decision in 44 Bom.L.R.799 is of no effect.

Sd/- P.B.Lal/25/4.

Remembrancer of Legal Affairs.

U.R. to H.D.(Poll), No.260 - Confl.dated 26th April,1949
S.I./14.5.56. 4c.

The question raised for the R.L.A.'s consideration is whether the editorial article under the caption "Death sentence has been carried out, but upon whom?" appearing in the issue of "Akhand Bharat" dated 20th of November 1949 is actionable under sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

2. A quotation from Manu is given in the beginning to the effect that men who have committed sins, once they suffer punishment awarded by the King, go to heaven pure, as do virtuous and pious men. The article opens by saying that in sentencing Godse and Apte to death the strict principles on non-violence were not followed, and there is a sentence in this opening paragraph which sneers at the attempts made by the followers of Gandhi to show mercy to Godse and Apte and thereby to advertise the Gandhian Philosophy all over the world. The sub-heading of the second paragraph reads "Whose was the purity of feeling". In the beginning of this paragraph it is stated that there are bound to be two views about Godse's action in shooting Gandhi. The paragraph then goes on to point out how Godse till the last steadfastly adhered to the purity of his feeling, which even his opponents will have to acknowledge, whereas Mahatma Gandhi the mischief or trouble of whose name is now attached to this regime and whose disciples make propaganda had to bring about the end of his life eventually through violence and for which he had also to take two lives as victims, let alone thousands of persons who suffered as victims at the hands of those who took advantage of Gandhi's murder.. Then follows a ~~xxx~~ passage which deserves to be quoted: "If we compare the feelings of both (i.e. Gandhi and Godse) these persons who are

now dead (literally, who have gone to heaven), a wise reader need not be told who retained the pure feelings till the last." The suggestion of the paragraph is quite clear that Godse as compared to Gandhi retained the purity of feeling till the last whereas the very manner of Gandhi's death and the events which followed thereafter show that Gandhi was not pure in his feeling. The article no doubt immediately goes on to add "from this one need not imagine that we are justifying the action of Godse or that we are condemning Government". The sub-heading of the third paragraph is "What can one gain by similes?" This paragraph deals with the simile of Ram and Ravan given by Nashruwala, and in criticising the simile, the following observations are made: "By this simile Nashruwala has very subtly ridiculed persons who believe in violence. But Nashruwala need not feel that by such ridicule anybody's importance is lessened. For, this very simile can be given by the opponents also. The person with whose regime people feel oppressed and disgusted and who put in jeopardy the lives and property of thousands of men and women, who gave a particular community the opportunity of constantly making rivers of blood flow in the country and who often staked his life with a view to show that that community must have his moral support - it need not be told whether this person was Ram or Ravan; nor need it be said who he was, i.e. whether he was Ram or Ravan, who meted out the punishment of death to this person although he himself had no strength and relied merely upon his idealism and upon his ~~xxx~~ firm faith. The simile may be one sided; but even so there is a variety of simile called 'Purnopama' (full simile). Therefore, we shall have to say, accepting this variety, if one takes the true meaning of the simile that would be quite proper, then Nashruwala and others need not feel sorry. We are one of those who feel that in the antagonism of Gandhi and Godse, there is no connection with Ram or

Ravan, and that it is not proper to use that simile." The clear drift of this passage is that the writer, although he may not think the simile relevant, is of opinion that if the simile were to be pressed, Gandhi would be Ravan whereas Godse would be Ram, that the public had got disgusted with Gandhi's methods and ways, and that on the whole Godse acted like Ram out of pure idealism and on the strength of faith. In the same paragraph it is later on stated: "One can find some similes in history wherein Nathuram may be declared a very famous man and Gandhi may be made to sit in the row of public enemies." The paragraph ends by saying that similes of this kind should not be used, that they disclose a diseased mind, and that we must, therefore, observe restraint. The final paragraph is intended to show that even after death, charity was not shown to Nathuram, and a passage from the Ramayan is quoted to contrast the treatment given by Ram to his enemy Ravan, whose body was handed over to his relations for performing obsequies. The penultimate pragraph says "It is natural that the followers of Gandhi should entertain a feeling of enmity towards Godse and Apte, but the emotions of love for the country upsurged in the hearts of Godse and Apte when they departed and they will naturally get the fruit according to God's law", the suggestion being that they died as patriots. The article ends by saying that even patriotism must have some limitations and must be kept within bounds if it is to have good results, which according to the writer is the moral of these events.

3. No doubt the article is very cleaverly written, the writer performing the almost impossible feat of rope dancing. The literal meaning of the quotation given at the beginning is of course that criminals atone for their crime after punishment; but the suggestion is that these particular criminals have gone to heaven. Realising the import of certain remarks, the

writer is at pains immediately to correct them by countervailing sentiments. Nevertheless, the impression which is left on the mind of an average reader by reading the whole article in a free, fair and liberal spirit is that the article expresses indirect admiration of Godse in particular. He is depicted as being purer in feelings till the last as contrasted with Gandhiji. He is assigned the position of Ram as against Gandhiji who is compared to Ravan, and it is suggested that ultimately history will vindicate him and instal him as a famous hero. These sentiments are expressed quite unequivocally, and the faint-hearted attempts made to correct the fervour of these sentiments by protests that, the writer does not mean to justify the murder or condemn the Government or is interested merely in drawing the lesson that patriotism must not go to extremes, are not sufficient for the purpose of changing the tenor of the article. That tenor is one of expressing indirect admiration for Godse as the author of the murder.

4. In my opinion, therefore, the article is actionable under clause (b) of sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

Sd/- P.M.Lad/1/12

Remembrancer of Legal Affairs.

J.R. to H.D. No.749-Confl., dated the 1st December, 1949.

S.I./14.6.56. 4c.

The question raised for the R.L.A's Consideration is whether the article under the caption "Departure of two youths to the other world" appearing in the issue of the 'Hindu' at Pandharpur dated 17th of November 1949 is actionable under section 4(1)(b) of the Indian Press (Emergency Powers) Act, 1931.

2. The article opens by saying that the 15th of November 1949 will be as equally a memorable day as the 30th of December (sic) - which seems to be a mistake for the 30th of January, the day on which Gandhiji was assassinated. The first paragraph contains a statement to the effect that these two youths have now been released from the bondage of life. They have departed to the other world or rather they ~~ax~~ were compelled so to depart, the suggestion being that they were made victims. In the same paragraphs Godse has been described as Pandit Nathuram Godse. The prefix "Pandit" has been applied to him throughout the article. The second paragraph contains the following statement: "From the beginning of the world a number of well-known leaders have been opposed, and persons were forthcoming who had murdered such leaders". The sneering remarks is made: "The memory of how many of such leaders has survived? and whatever little may have survived perhaps is based on hypocracy rather than upon adherence to principle". The suggestion in this paragraph therefore, is that the murder of Gandhiji is a normal feature of history, and that those who cherish his memory do so out of hypocratical motives rather than out of devotion for his principles. Paragraph 5 describes how Godse and Apte will be arraigned before the tribunal of God where Gandhiji himself would be, and this paragraph contains the following objectionable statement: "But these youths will say ' we were not confirmed criminals or

assassins; not have we followed that profession before. We became restless because of certain things which proved detrimental to the glory of Bharat were you asked us to take birth, and that is howwe committed this deed. If that be sin, our ideology was not of a selfish interest or of personal aggrandisement but of the welfare of the nation'. If they ask these questions, what answer can the other side give?' The last paragraph contains the observation that those who are really responsible for bringing about a state of affairs which leads to the crime always escape punishment, and that this particular instance is not an exception.

3. When the article is read as a whole even in a free, fair and liberal spirit, it does leave an impression on the mind of the average reader that the writer indirectly approves of what Godse and Apte have done and feels that the murder of Gandhiji was an ordinary matter. The Statement that the 15th of November will be a memorable day, that these two persons were made victims and the description of their defence before the highest tribunal of God wherein the motive is stated to be a laudatory one of serving the cause of India and the final suggestion that the persons responsible for bringing about the state of affairs which led to the murder have escaped punishment - all go to confirm that the writer indirectly approves of the murder, and in any case expresses his admiration of those who committed it.

4. In myopinion, therefore, the article is actionable under clause (b) of sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

Sd/- I.V.Lad/

Remembrancer of Legal Affairs,

U.R. to H.D. No.14871, dated the 21st December, 1949.

J.I./14.5.56. 4o.

The question raised for the R.L.A's _____tion is whether the article under the caption "Governmental antics and humbug" of the Harijan Day" is actionable under section 4 of the Indian Press (Emergency Powers) Act.

2. The article criticizes the Congress Government's policy regarding the celebration of Harijan day as hypocrisy and purports to state instances where under the Congress rule Harijans were oppressed and harassed. It accuses the Ministry of sounding empty slogans and says that if the Ministry were to inform the public of the substantial work they have done for the Harijans by way of giving them lands, building houses for them, employing Harijan Graduates and so forth, the Harijans would condemn them. It goes on to consider an article written by Mr. Kashruwalla in the 'Harijan' and states that that article is intended to create a split among the Harijans and to distribute the sin of untouchability among non-Hindus, such as, Parsis, Muslims etc.

3. No doubt the article contains criticism which is couched in very strong language almost bordering on vulgarity. The instances which are cited are twisted for the purpose of showing that the Ministry condones or connives at acts of oppression against the Harijans. Under Explanations 2 and 3 to section 4, comments expressing disapprobation of the measures of Government with a view to obtaining their alteration by lawful means or disapprobation of the administrative or other action of Government without exciting or attempting to excite hatred, contempt or disaffection do not become actionable. It is well established that mere disapprobation, however strongly and flagrantly expressed does not by itself imply that the intention was to excite disaffection. Although, therefore, strong and even vulgur language has been used in the article, since it is the weekly paper of the Akhil Bharatiya Dalita Federation devoted to the Harijan

[illegible], and the comments are made on the occasion of the observance of the Harijan Day, they will be protected under the above Explanations.

4. In my opinion, therefore, the article is not actionable.

Sd/- P.N.Lal/22/12
Remembrancer of Legal Affairs.

U.O. to H.D. No.14985, dated the 23rd December, 1949.

S.I./14.6.56. 40.

The question referred to the R.L.A. for advice is whether the poem under the caption "A word to the Ex brave Momin (a true Muslim)" published in the issue of the Kusavvir dated 20th November 1949 is actionable under section 4(1) (h) of the Indian Press (Emergency Powers) Act, 1931.

2. The poem is an exhortation to a Muslim in India to show courage, to give a challenge in the slogan of Allah-o Akbar, not to be afraid of the noisy tumult of falsehood, to do his duty to propagate the truth, i.e., the truth of religion of Islam and finally to kiss the sword for the sake of truth. It must be read in the context of current events happening in India and Pakistan, and the reference to the majority can be legitimately construed as a reference to the Hindu Community. The impression which the poem leaves on the mind of a Muslim reader to whom it is addressed is that he is invited to champion the cause of Islam as against the majority, to raise the slogan of Allah-O-Akbar, which is the well-known battle cry of Muslims and even to take up the sword for the propagation of his faith. Although the language of the poem is designedly vague, it contains sufficient material which even when it is read in a free, fair and liberal spirit can be said to have a tendency directly or indirectly to promote feelings of enmity or hatred between Muslims and Hindus.

3. In my opinion, therefore, the ~~xx~~ poem is actionable under clause (h) of sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

sd/- P.M.Lal/28/12.

Remembrancer of Legal Affairs.

U.R. to H.D. No.15248, dated the 29th December, 1949.

S.I./14.3.56. 4c.

Office of the R.L.A.

The question raised for the R.L.A's consideration is whether the article under the caption "Fight and Live; be quiet and die" by Mr.K. Channabasappa in the issue of the Vishal Karnatak dated 26th November 1949 is actionable.

2. The article criticizes the Congress policy in various particulars but with special reference to the decision of not having a separate Karnatak Province. The article declares that the people of Karnatak should not rest content until the issue is resolved. The concluding paragraph openly advocates satyagraha. It is thus stated:

> "Nobody need entertain any doubt regarding the method of our struggle. Let the Central Government also realise this. We will follow the non-violent and truthful way taught by Gandhiji to achieve our salvation. The weapon that wrested independence from the British will help us to achieve our Province. Neither the teargas, nor the bullets nor the atom bomb from America shall shake us a whit. On the blood of the two crores of Kannadigas, let the Central Government build a paradise in independent India teeming with peace, prosperity and security. May the Father of the Nation feel happy with this and may all of us who boast that we are his children feel happy. .... But what shape should that sacrifice take: Firstly, all those Kannadigas, either elected or getting salary, who are in the employment of the Provinces which were carved out irregularly should resign. Secondly, our businessmen should suspend all their daily transactions and observe Hartal. Thirdly the schools, colleges and offices should be closed. fourthly, people should resort to the invincible weapon of the no-tax campaign. Fifthly, the ryots should refuse to pay a levy of foodgrains to Government".

It is, therefore, abundantly clear that the writer advocates resignation of offices by public servants, refusal to pay taxes and refusal to obey the law relating to the payment of levy. Under clause (f) of sub-section (1) of section the matter would become actionable if it has a tendency directly or indirectly to encourage or incite any person to interfere with the administration of the law (as in the case of the levy) or to refuse the payment of any land revenue, tax etc. payable to Government or to any local authority, and under clause (g) if it has a similar tendency to induce a public servant to resign his office

3. The article, therefore, is clearly actionable under clauses (f) and (g) of sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

Sd/- P.M.Lad/6/1

Remembrancer of Legal Affairs.

U.R. to H.D. No.316, dated the 9th January 1950.

S.I./14.5.56. 4c.

Legal Department.

Submitted.

A classified list of opinions recorded in the year 1949 in respect of Press Matters is submitted herewith.

2. Opinions wherein it was advised that no action would be feasible are marked with an asterisk.

Sd/- N. P. Raja
~~26~~./25/11.

R.L.A.

D.I./14.5.56. 4c.

Section 4(a) & (b) of the I.P. (E.P.) Act, 1931

(1) No.2601 dated 4-3-1949 ... Leaflet

(2) No.3486 dated 31-3-1949 ... Jai Hind

(3) No.341-Confl.dated 2-6-1949 (also under (h) ... Blitz.

(4) No.7737 dated 11-7-1949 ... Kolaba Samachar

(5) No.13072 dated 17-11-1949 ... Mashal

(6) No.749-Confl. dated 1-12-1949 Akhand Bharat

(7) No.14671 dated 21-12-1949 ... Hindu

Section 4(1) (a) of the I.P. (E.P.) Act, 1931.

(1) No.2451 dated 5-3-1949 ... Leaflet

* (2) No.188-Confl. dated 1-3-1949 . New Age

(3) No.861-Confl. dated 26-4-1949 . Current Affairs

* (4) No.811-Confl- dated 30-4-1949 . Pamphlet

(5) No.7189 dated 29-4-1949 ...

* (6) No.10587 dated 16-9-1949 ... Azadi

(7) No.11645 dated 19-10-1949 (also under (f)) ... Mashal

* (8) No.11755 dated 20-10-1949 ... Jay Gujarat

(9) No.636-Confl. dated 8-10-1949 (also under (h)) Book

* (10) No.12271 dated 1-11-1949 ... Mashal

* (11) No.12775 dated 12-11-1949 ... Mashal

(12) No.13034 dated 16-11-1949 ... Mashal

(13) No.13848 dated 21-11-1949 ... Jay Gujarat

* (14) No.14965 dated 23-12-1949 ... Janata

Section 4(1) (b) of the I.P. (E.P.) Act, 1931.

* (1) No.11729 dated 20-10-1949 ... Janawani

(2) No.316 dated 9-1-1950 (also under (g)) ... Vishal Karnatak

Section 4(1) (h) of the I.P. (E.P.) Act, 1931.

(1) No.4614 dated 26-4-1949 ... Roznama-e-Khilafat

(2) No.10466 dated 15-9-1949 ...

(3) No.15948 dated 29-12-1949 ... Rahnuma

Section 4(1) (1) of the I.P. (M.P.) Act, 1931.

* (1) No.13547 dated 23-11-1949 .... Iqbal

Unauthorised News Sheet

* (1) No.4618 dated 28-4-1949 ....

* (2) No.551-Confl. dated 11-6-1949 ....

Imp. (3) No.260-Confl. dated 26-4-1949 ....

Miscellaneous

Imp. (1) No.471-Confl. dated 24-5-1949 .... Forfeiture of Security

(2) No.13066 dated 17-11-1949 ....

(3) No.729-Confl. dated 23-11-1949....